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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/804,255	03/13/2001	Yoshiaki Tomomatsu	35.G2783	9122

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NEW YORK, NY 10112

EXAMINER

THOMPSON, JAMES A

ART UNIT	PAPER NUMBER
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2624

DATE MAILED: 06/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/804,255

Applicant(s)

TOMOMATSU, YOSHIAKI

Examiner

James A. Thompson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) \_\_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 9 and 11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 March 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Response to Arguments***

1. It has been noted by Examiner that the amendments to claim 4 overcome the claim objection listed in item 2 of the previous office action, dated 14 October 2004. The objection to claim 4 listed in item 2 of said previous office action is therefore withdrawn.

2. Applicant's arguments filed 24 January 2005 have been fully considered but they are not persuasive.

Applicant's arguments are directed to the present amendments to the claims and not to the claims as filed prior to said previous office action. The rejections of the claims based on prior art, some of which are new grounds of rejection that are necessitated by the present amendments, are given in detail below.

Further, Examiner notes that Applicant has not challenged the official notice given in item 5 of said previous office action. The official notice given item 5 of said previous office action is therefore deemed proper and accepted by Applicant.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-2, 5, 9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ueda (US Patent 6,008,812) in view of Clouthier (US Patent 5,949,964).

**Regarding claims 1, 9 and 11:** The apparatus of claim 9 performs the method of claim 1 and comprises the program embodied on a recording medium recited in claim 11.

Ueda discloses an image processing apparatus (figure 1 of Ueda) for processing an input image that contains a plurality of objects (figure 10; and column 16, lines 40-42 and lines 45-48 of Ueda) comprising identifying means (figure 1(11(portion)) of Ueda) for identifying the types of objects (column 5, lines 25-28 of Ueda) based on a rendering command (column 4, lines 54-58 and column 5, lines 3-8 of Ueda). The CPU (figure 1(12) of Ueda) loads the software programs (column 4, lines 62-64 of Ueda), wherein said software programs include illustration image editing software, word processing software, and others (column 4, lines 37-43 of Ueda), and executes said software programs based on the type of image data (column 5, lines 3-7 of Ueda), said image data types including photographic image data, text data, and others (column 5, lines 24-28 of Ueda). Said image data types are combined into a single composite image (column 4, lines 54-55 of Ueda), which is, by definition, rendering said composite image. The rendering command statements that are entered via the various software programs must inherently be analyzed in order to determine which software programs are used to edit and render which portion of the composite image data.

Ueda further discloses means (figure 1(11(portion)) of Ueda) for obtaining an image correction condition (column 17,

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lines 24-28 and lines 32-37 of Ueda) based on image characteristics of a specific type of object (column 17, lines 18-24 of Ueda).

Ueda further discloses image correcting means (figure 1(11 (portion)) of Ueda) for correcting the input image (column 25, lines 55-59 of Ueda) related to the specific type of object by using said image correction condition (column 26, lines 3-8 of Ueda); and developing means (figure 1(11(portion)) of Ueda) for developing raster data based on said rendering command (column 26, lines 31-36 of Ueda), wherein if an image area has said specific type of object (figure 11 and column 5, lines 56-58 of Ueda), said rendering command is inputted a plurality of times during operation of said identifying means, said obtaining means, said correcting means, and said developing means (column 5, lines 59-65 of Ueda). Based on the specific type of image to be rendered (figure 11 and column 5, lines 61-65 of Ueda), a specific rendering command statement is used (column 5, lines 56-61 of Ueda). The specific rendering commands are a part of the various software programs that are used (column 4, lines 54-58 of Ueda) and are initially input by the CPU, along with the various types of data to be processed (column 4, lines 62-67 of Ueda) and therefore must be re-input to be executed.

The microcomputer portion (figure 1(11) of Ueda) of the apparatus (figure 1 of Ueda) includes a CPU (figure 1(12) of Ueda), which performs the various operations of said apparatus (column 4, line 61 of Ueda), a program memory (figure 1(13) of Ueda), a working memory (figure 1(14) of Ueda), and an image memory (figure 1(16) of Ueda) (column 4, lines 19-24 of Ueda). The identifying means, obtaining means, correcting means, and developing means are the corresponding portions of the

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microcomputer, particularly including the portions of the CPU, the various memories, and the therein embodied software programs that perform the operations of said identifying means, said obtaining means, said correcting means, and said developing means.

Ueda does not disclose expressly that, when said identifying means fails to identify the specific type of object, said rendering command is inputted one time during the operation of said identifying means and said developing means.

Clouthier discloses that, when the identifying means fails to identify the specific type of object (column 3, lines 39-43 of Clouthier), said rendering command is inputted one time during the operation of said identifying means and said developing means (column 4, lines 9-13 of Clouthier). If the specific type of an object is not identified, said object is assumed to be raster image data (column 3, lines 39-43 of Clouthier). It can therefore directly be part of the received image data (column 4, lines 9-13 of Clouthier), since said object is already in raster format, and therefore does not need image correction commands to be re-input and thus has only be inputted one time.

Ueda and Clouthier are combinable because they are from the same field of endeavor, namely the control, correction and rendering of image data. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to designate an object as a default raster image data type if said object is not identifiable, as taught by Clouthier, and therefore have no image corrections performed on said object. The motivation for doing so would have been that, if an object is not identifiable, then it would not be logical to perform

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image correction upon said object. Objects that are identifiable are corrected based on the specific designation (column 5, lines 56-65 of Ueda), but if there is no designation, then there are no criteria by which to perform image correction. Therefore, it would have been obvious to combine Clouthier with Ueda to obtain the invention as specified in claims 1, 9 and 11.

**Regarding claim 2:** Ueda discloses that said specific type of object is a photographic image (figure 11 and column 5, lines 25-31 of Ueda).

**Regarding claim 5:** Ueda discloses a dividing step for dividing said input image containing said plurality of objects into a plurality of portions (figure 9 and column 8, lines 41-46 of Ueda). In the example of figure 9 of Ueda, all of the photographic partial images (figure 9(52a-52m) of Ueda) are placed in a photographic portion (figure 9(52) and column 8, lines 47-49 of Ueda). Further, another photographic region is formed (figure 9(54) and column 8, lines 49-52 of Ueda), two separate text regions are formed (figure 9(56,58) and column 8, lines 52-55 of Ueda), and a graphic image regions is formed (figure 9(60) and column 8, lines 55-57 of Ueda).

5. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ueda (US Patent 6,008,812) in view of Clouthier (US Patent 5,949,964) and well-known prior art.

**Regarding claim 3:** Ueda discloses an outputting step for outputting data representing the corrected object to an image forming unit (figure 1(24) and column 5, lines 14-19 of Ueda).

Ueda further discloses that said rendering command is inputted using software (column 4, lines 54-58 of Ueda). Therefore, said rendering command statements are inherently

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input from an operating system, which resides on a computer (figure 1(11) of Ueda), since said software inherently requires an operating system in order to be loaded onto a computer and be executed on said computer.

Ueda does not disclose expressly that said image processing method is executed by a printer driver.

**Official Notice is taken** that performing image processing using a printer driver and inputting commands from an operating system which resides on a computer are old, well-known, and expected in the art. It would have been obvious to one of ordinary skill in the art at the time of the invention to use a printer driver for performing image processing since printer drivers are common means of performing image processing for the particular printer to which the resultant image is to be output.

6. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ueda (US Patent 6,008,812) in view of Clouthier (US Patent 5,949,964) and Kim (US Patent 5,963,665).

**Regarding claim 4:** Ueda in view of Clouthier does not disclose expressly that said obtaining step calculates said image correction condition based on a histogram of the specific type of object.

Kim discloses plotting a histogram of each object (frame) of an image (column 5, lines 47-52 of Kim) and corrects each object of the image under a condition for image correction drawn from the histogram (column 4, lines 48-53 of Kim).

Ueda in view of Clouthier is combinable with Kim because they are from the same field of endeavor, namely the processing and correction of image data. At the time of the invention, it would have been obvious to a person of ordinary skill in the art



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to plot a histogram for an object, as taught by Kim, when a type of object is a specific type and using a rendering command statement that specifies rendering of the object, as taught by Ueda. The histogram would also be used to determine the condition for correcting the object, as taught by Kim. The motivation for doing so would have been to enhance the quality of the resulting image by compensating for the brightness levels of the different image frames (column 5, lines 36-40 of Kim). Therefore, it would have been obvious to combine Kim with Ueda in view of Clouthier to obtain the invention as specified in claim 4.

#### **Conclusion**

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to James A. Thompson whose telephone number is 571-272-7441. The examiner can normally be reached on 8:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David K. Moore can be reached on 571-272-7437. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

James A. Thompson  
Examiner  
Art Unit 2624

JAT  
17 June 2005



THOMAS D.  
~~THOMAS D.~~ LEE  
PRIMARY EXAMINER